UNITED STATES DISTRICT COURT EASTERN DISTRICT OF MISSOURI EASTERN DIVISION

ANTHONY L. CARROLL,)	
)	
Petitioner,)	
)	
v.)	No. 4:08CV1504 AGF
)	
STEVE LARKINS,)	
)	
Respondent.)	

MEMORANDUM AND ORDER

Petitioner has filed a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. Upon initial review of the petition, the Court found that the petition was filed after the statute of limitations expired. On October 14, 2008, the Court ordered petitioner to show cause why the petition should not be dismissed as untimely.

Petitioner has replied to the Court's Show Cause Order. While petitioner alleges in a conclusory manner that he timely filed a post-conviction relief motion in the Missouri courts, he has failed to state on which date he filed such motion. In his petition, however, petitioner alleged facts that showed that his criminal conviction became final on approximately March 19, 2007, and that he did not file a motion for

¹Petitioner filed an exhibit that showed that he filed a motion for application for transfer to the Missouri Supreme Court on November 2, 2006. Petition at 7-15. The Missouri Supreme Court denied the application on December 19, 2006. <u>State v. Carroll</u>, Case No. SC88117 (docket sheet accessed via Case.Net,

post-conviction relief in the Missouri courts until May 19, 2008.² Under these facts, petitioner's statute of limitations for filing the instant petition ran on approximately March 19, 2008. Because the instant petition was not filed until September 30, 2008, it is barred by the statute of limitations set forth in 28 U.S.C. § 2244(d). As a result, the Court will dismiss the petition without further proceedings. See Rule 4 of the Rules Governing Habeas Corpus Petitions Under 28 U.S.C. § 2254.

Accordingly,

IT IS HEREBY ORDERED that the petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 is **DISMISSED** without prejudice.

An Order of Dismissal shall accompany this Memorandum and Order.

Dated this 8th day of January, 2009.

CATHERINE D. PERRY

UNITED STATES DISTRICT JUDGE

https://www.courts.mo.gov/casenet/base/welcome.do).

²See Petition at 6. Although petitioner indicates that this was his "second" Rule 29.15 motion, he does not give any date on which he allegedly filed a previous 29.15 motion.